

Queensland State Election

2017 Call to
Parties Statement

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Queensland Law Society represents over 11,000 solicitors across the state and is the peak professional membership body for solicitors. We advocate for good law and support good lawyers in Queensland.

On behalf of the Queensland legal profession, Queensland Law Society is calling on Queensland's political parties in 2017 to consider and respond to the following priority issues identified by our members.

1. Queensland's law reform processes

The state government is responsible for making laws for the peace, welfare and good government of Queensland. This mandate extends to the creation of good laws and policies that:

- Are grounded in cogent evidence
- Are clearly drafted and provide certainty to affected individuals
- Are the result of proper consultation processes (such as those employed by the Australian Productivity Commission); and
- Serve the long-term interests of the Queensland community.

Queensland Law Society calls for a commitment:

- To evidence-based policy-making
- To implement a comprehensive consultation process for the formation of legislation. This process should include a one-month stakeholder consultation period prior to the introduction of a bill in Parliament, with any departures from the process documented and tabled in Parliament
- That all bills are referred to Parliamentary Committees and that Parliamentary Committees are allowed at least two months from the date of referral to provide their report
- To the provision of complete Explanatory Notes including comprehensive justification for a bill's deviation from the fundamental legislative principles
- To the use of justice impact statements upon the introduction of a bill to detail what "cost" will be imposed on the justice system
- To enact an amendment to the *Acts Interpretation Act 1954* (Qld) that any new legislation accord with fundamental legislative principles, common law protections and established rules of international law and custom
- To provide bills in tracking where bills propose amendments to existing legislation
- To avoid the use of omnibus bills or to ensure that omnibus bills only contain bills of similar subject matter
- To reasonable consultation on new subordinate legislation and significant amendment to existing subordinate legislation.

2. Judicial Commission for Queensland

Preservation of a strong and independent judiciary is essential to maintaining public confidence in the administration of justice and the promotion of the separation of powers. A judicial commission will enhance openness, transparency and independence of the judicial system.

Queensland Law Society calls for a commitment to the establishment of a judicial commission:

- To formulate a list for the appointment of judicial officers from which the Attorney-General must choose. Any deviations from this list must be reported to Parliament
- To organise and supervise an appropriate scheme of continuing education and training, including First Nations cultural awareness training of judicial officers
- To examine complaints against judicial officers, including delays in delivering judgments and inappropriate or unreasonable conduct directed towards workers or persons appearing before the officer.

3. Access to justice in Queensland

Effective access to justice means that people are not “priced out” of the legal system. This means all Queenslanders should be able to bring and respond to court proceedings, regardless of their financial, social or geographic status. All Queenslanders should be able to rely on a sustainably-funded legal aid system and well-resourced courts, tribunals and alternative dispute resolution systems.

Queensland Law Society calls for a commitment:

- To increase the level of per capita state government Legal Aid and legal assistance funding to improve access to legal assistance for Queenslanders.
- To allow legal representation as of right in all actions in the Queensland Civil and Administrative Tribunal and Queensland Industrial Relations Commission, Anti-Discrimination Commission and other tribunals
- To better resourcing and improvements to the facilities of the Queensland Civil and Administrative Tribunal
- To work with key stakeholders to establish a Dispute Resolution hub in Queensland.

4. Court resourcing

In order to promote access to and the administration of justice, Queensland courts, commissions and tribunals must be appropriately funded and resourced.

Queensland Law Society calls for a commitment:

- To appoint more magistrates (including specialist Children’s Court magistrates)
- To appoint at least five additional District Court judges and at least three additional Supreme Court judges, as well as appointing a permanent Supreme Court judge in Southport
- That new appointments of magistrates, District and Supreme Court judges reflect the significant experience, knowledge, expertise and diversity of the solicitors’ branch of the legal profession
- That an increase in lodgements in each of the criminal jurisdictions will result in a proportionate increase in the number of judicial officers in the relevant region
- To increased funding for Queenslanders living in rural, regional and remote areas for regular access to visiting circuit courts, commissions and tribunals
- That electronic court technology, including full e-filing facilities and e-trials, be made generally available to the criminal and civil law jurisdictions to improve court technology and resources in regional courts.

5. Criminal law in Queensland

Criminal law outcomes have significant impacts on the rights and liberties of Queenslanders. To this end criminal law reform must be evidenced-based and the subject of comprehensive consultation and consideration.

Queensland Law Society calls for a commitment:

- To review the effect of the Moynihan stage one reforms including its effect on access to justice, contribution to delay and its cause for additional stages/applications in the superior courts
- To refrain from the creation of new mandatory sentencing regimes and to take steps to repeal the current mandatory sentencing regimes
- To reducing rates of remand by investigating bail assistance programs for young people and adults, with specific reference to the incarceration rates of First Nations people
- To implement First Nations Elder visitor programs in Queensland correctional facilities
- To investigate and implement pilot programs that are alternatives to incarceration, including but not limited to justice reinvestment and court-ordered parole
- To implement programs to deal with low-level offending, such as increased police drug diversion, adult cautioning, increased ticketing, deferred prosecution arrangements and increased funding for justice mediation
- To maintaining all specialist courts
- To not reversing the onus of proof for criminal and regulatory offences
- To refrain from abrogating the right to claim privilege on the basis of self-incrimination and a commitment not to use derivative evidence
- To undertake a wholesale review of the *Justices Act 1886*.

6. Children's law in Queensland

Queensland Law Society has advocated for better treatment of children and young people in our legal system through our submission work and our policy position paper on children and young people's issues.

Queensland Law Society calls for a commitment:

- To introduce measures to secure young people's privacy and confidentiality when adult matters are being heard at the same time and in the same location as Childrens Court matters
- To maintain the current protections for children and young people under the *Youth Justice Act 1992*
- To decriminalise children and young people in the child protection system
- To implement a transparent and accessible complaints mechanism in the child protection system.

7. Family and domestic violence matters

Queensland Law Society recognises the devastating impact that family and domestic violence has on our community. We support and are committed to the continuing implementation of recommendations made in the *Not Now, Not Ever* report.

Queensland Law Society calls for a commitment:

- To the continued roll out of specialist domestic violence courts throughout Queensland
- To ongoing and continued funding for specialist domestic violence duty lawyers across Queensland
- To ongoing professional development for magistrates on domestic and family violence and its impact on the victims of violence and abuse, with specific reference to First Nations' peoples cultural needs
- To improving pathways between the Magistrates Court, the Childrens Court, the Family Court and the Federal Circuit Court to ensure the justice response is better-coordinated.

8. Rights of small business and property owners

Queensland Law Society supports reforms, which will streamline processes and deliver equitable outcomes for small business and property owners in Queensland.

Queensland Law Society calls for a commitment:

- To amend the Additional Foreign Acquirer Duty (AFAD) framework to remove the double imposition of duty, which can occur when a foreign investor acquires an interest in a landholder corporation or trust that holds AFAD land. The imposition of double-duty on a purchase will affect investment in Queensland
- To reform the legislative framework under which local governments exercise a power of sale to recover unpaid rates so that local governments are required to obtain market value when selling. A reformed approach should also include a specific and consistent notification and advertising process
- To reform the duty position in Queensland to reflect the position in most other Australian states, so that duty is not payable on non-land business asset transfers
- To abolish all duty payable on the restructure of a business where the beneficial ownership of the entity does not change, such as the restructure of a partnership or individual owner to a corporate structure.

9. Access to fair compensation schemes in Queensland

Queensland Law Society supports access to fully-funded, accessible and fair compensation schemes.

Queensland Law Society calls for a commitment:

- That impairment thresholds for access to common law damages will not be introduced
- That lump sum payments for minor injuries will not be replaced with “guaranteed defined benefits”
- To a consultation process on the statutory reform required to recognise the legal status of unincorporated associations. This reform would respond to the need to identify a proper defendant in historic child sexual abuse claims and clarify liabilities of officeholders
- To issue a discussion paper considering the extent to which charitable trust assets should be available to meet the proper liabilities of an associated charity, including responding to damages awards to survivors of child sexual abuse.

10. Consumer protection for Queenslanders

Queensland Law Society is committed to working with Parliament to protect the rights of Queensland consumers.

Queensland Law Society calls for a commitment:

- To investigate the impacts on the justice system of lay representatives appearing in legal matters, including risks to consumers and delays to judicial processes. The investigation should address the right to claim damages from the lay representative in cases of negligence, the implementation of an insurance scheme to protect consumers and a commitment to prosecute those holding themselves out as lawyers
 - To amend the personal injuries legislative framework to strengthen the prohibitions on claim farming by non-legal organisations in Queensland and to allocate additional funding to regulators to support the investigation and prosecution of persons who engage in inappropriate conduct.
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How to get involved

Members interested in these issues are encouraged to contact their **local State member**.

We welcome your comments and feedback to QLS Advocacy.

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